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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,443	02/26/2004	Steven E. Koenck	14425US02	7829

7590 02/01/2008
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EXAMINER

CHERY, DADY

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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02/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/787,443

Applicant(s)

KOENCK ET AL.

Examiner

Dady Chery

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/18/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1- 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Meier (US Patent, 6, 0848, 867).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1, 2, 11,12,18,19,25,26,32,33,42,43 and 49, Meier discloses in a communication network having a plurality of subnetworks (**Fig. 2, 7,8 and 9**), a portable data collection terminal comprising:

a base module comprising a base processing unit operable on data in accordance with a set of communication software routines (**Col.1, lines 55 -61 and Col. 2, lines 1 -4, base stations required to adequately serve the system**);

a communication module comprising:

a first communication transceiver comprising a first operating characteristic to conduct data communications on a first of the plurality of subnetworks (**Fig. 2,101 and Col. 2, lines 51 -54,))**;

a second communication transceiver comprising a second operating characteristic to conduct data communications on a second of the plurality of subnetworks, the second operating characteristic being different from the first operating characteristic and the second subnetwork being different from the first subnetwork (**Fig. 2,105, Col. 2 , lines 51 -54 , Col. 19, lines 36 - 48 and Col. 24, lines 50 -65, wired and wireless**);

a communication processor coupled between the base processing unit and the first and second communication transceivers for converting data received by the first and second communication transceivers to a format for processing by the base processing unit in accordance with the set of communicating software routines and for converting data processed by the base processing unit to a format for transmission by a selected one of the first and second communication transceivers, thereby isolating the base processing unit from differences between the first and second operating characteristics of the first

and second communication transceivers (**Col. 24, lines 51 – 66, WDAP has processor that converts data from wireless to wired network vice-versa**).

The recitation that “a portable data collection terminal” has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

Regarding claims 3, 13, 20, 27, 34 and 44, Meier discloses the portable data collection terminal of claim 1 wherein the first communication transceiver operates in a wired subnetwork and the second communication transceiver operates in a wireless subnetwork (**Fig. 2, 105, Col. 2, lines 51 -54, Col. 19, lines 36 - 48 and Col. 24, lines 50 -65, wired and wireless**).

Regarding claims 4 and 35, Meier discloses the portable data collection terminal of claim 3 wherein the wireless subnetwork comprises a backup network in the event of a failure in the wired subnetwork (**Fig. 7, Col. 22, lines 45 – 51**).

Regarding claim 5, Meier discloses the portable data collection terminal of claim 4 wherein the communication processor includes test means (**Fig. 8, 307**) for testing the wired subnetwork (**Col. 8, lines 20 - 28 and Col. 24, lines 21 – 24**).

Regarding claims 6, 14, 21, 28 and 45, Meier discloses the portable data collection terminal of claim 5 wherein the test means includes means for initiating a test (**303**) communication by the second communication transceiver and means (**291**)

responsive to the absence of receipt of a reply test communication by the first communication transceiver following initiation of a test communication by the second communication transceiver for conducting data communications with the second communication transceiver (**Col. 8, lines 20 - 28 and Col. 24, lines 21 – 24**).

Regarding claim 7, 15, 22, 29,36,37 and 46,Meier discloses the portable data collection terminal of claim 6 wherein the test means further includes means responsive to receipt of a test communication by the second communication transceiver for initiating a test communication by the first communication transceiver (**Col. 8, lines 20 - 28 and Col. 24, lines 21 – 24**).

Regarding claims 8, 16,23,30,39 and 47,Meier discloses the portable data collection terminal of claim 1 wherein the communication module is housed in a PCMCIA card (**Col. 23, lines 19 -20**).

Regarding claims 9, 17,24,31 and 40, Meier discloses the portable data collection terminal of claim 1 wherein the communication processor further includes means for relaying communication received by one of its first and second communication transceivers for retransmission by the other of its second and first communications transceivers (**Col. 2, lines 53 -55, Col. 3, lines 54 -56 etc...**).

Regarding claims 10, 41 and 48, Meier discloses In the communication network of claim 1 including-a computer and a plurality of portable data collection terminals (**Fig. 7, 285,264,269,275,etc..**) each coupled to the plurality of subnetworks (**265,287,289**) and wherein at least one of the communication transceivers of each of the portable data collection terminals operates in a wireless subnetwork, the communication processor of

each data collection terminal being responsive to an out-of- range condition for the respective portable data collection terminal to initiate data communications by its said one communication transceiver to another of the plurality of portable data collection terminals, the other of the data collection terminals relaying data communications between the computer and the first-named data collection terminal(Col. 8, lines 20 -29).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. ***

4. Mahany US Patent 5,862,171

5. Mahany et al. US Patent 6,374,311

Morris et al. US Patent 5,568,645.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dady Chery whose telephone number is 571-270-1207. The examiner can normally be reached on Monday - Thursday 8 am - 4 pm ESt.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dady Chery 01/30/2008
6.


RICKY Q. NGO
SUPERVISORY PATENT EXAMINER